

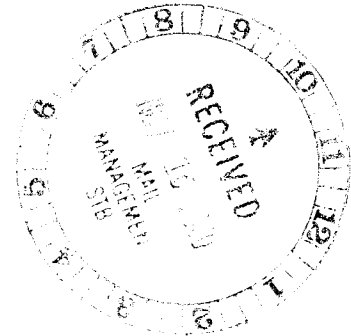


200366
Canadian
Pulp and Paper
Association

L'Association
canadienne
des pâtes et papiers

November 15, 2000

SURFACE TRANSPORTATION BOARD
Office of the Secretary
Case Control Unit
Attention: STB Ex Parte No. 582 (Sub-No. 1)
1925 K Street N.W.
Washington, DC
20423-0001



**Re: Major Rail Consolidation Procedures - S.T.B.
Ex Parte No. 582 - (Sub-No. 1) - Service Date October 3, 2000
Canadian Pulp and Paper Association**

Dear Sirs:

Pursuant to the above referenced Decision of the Surface Transportation Board, the Canadian Pulp and Paper Association hereby encloses an original and 25 copies of the Submission of the Canadian Pulp and Paper Association.

Yours truly,

David W. Church
Director - Transportation,
Recycling and Purchasing

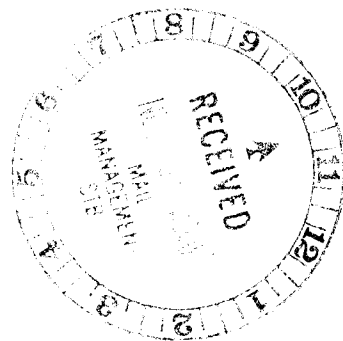
1155 Metcalfe Street
Montreal, Quebec
Canada H3B 4T6

Tel.: (514) 866-6621
Fax: (514) 866-3035
Web site:
<http://www.open.doors.cppa.ca>

1155, rue Metcalfe
Montréal (Québec)
Canada H3B 4T6

Tél.: (514) 866-6621
Télécopieur: (514) 866-3035
Site internet:
<http://www.portes.ouvertes.cppa.ca>

Canadian Pulp and Paper Association



Comments to the Surface Transportation Board Stb Ex Parte No. 582 (Sub-No. 1) Major Rail Consolidation Procedures Notice of Proposed Rulemaking

Proposed Modifications to Regulations at 49 Cfr Part 1180 Governing Proposals for Major Rail Consolidations

November 15, 2000

CPPA hereby provides its comments on proposed modifications to regulations at 49 CFR Part 1180 as requested by the STB in its decision bearing service date October 3, 2000 as corrected on October 4, 2000.

GENERAL POSITION OF THE CPPA

CPPA strongly supports all modifications to your regulations at 49 CFR Part 1180 which will substantially increase the burden on applicants to demonstrate that a proposed transaction is in the public interest and require them, among other things, to demonstrate that the transaction will enhance competition as an offset to negative impacts resulting from service disruptions and competitive harms likely to be caused by the merger.

1155 Metcalfe Street
Montreal, Quebec
Canada H3B 4T6

Tel: (514) 866-6621
Fax: (514) 866-3035
Web site: <http://www.cppa.org>

1155, rue Metcalfe
Montréal (Québec)
Canada H3B 4T6

Tél: (514) 866-6621
Télécopieur: (514) 866-3035
Site Internet: <http://www.cppa.org>

GENERAL POLICY STATEMENT 1180.1(a)

Your proposed amendment of the general policy statement will include and highlight enhanced competition as an important public interest benefit. In our submission dated May 12, 2000 we recommended the inclusion of a rebuttable presumption that a major rail consolidation will substantially reduce the rail transportation alternatives available to shippers with the onus being placed on the applicants to rebut this presumption. We continue to believe that there is significant merit in this recommendation notwithstanding your proposal to upgrade the importance of competition in your balancing test.

CPPA strongly believes that enhanced competition should be seen as the primary consideration in major rail consolidations particularly when it is recognized that railroad rationalization to eliminate excess capacity has been largely completed and that there are now only limited efficiencies and service improvements to be achieved from further down-sizing. Accordingly, a revised general policy statement should give primary emphasis to enhanced competition and place it first among the various criteria identified therein; i.e. enhanced competition, improved service and greater economic efficiency. This priority should also be reflected in 1180.1(c).

COMPETITION

CPPA strongly believes that the policy statement requires a more specific enunciation of the term "competition", to include and emphasize intramodal rail competition. We share the concerns of Vice-Chairman Burkes, when he states at page 40 of the Decision:

"However, I question whether or not the proposed changes adequately place the focus on the enhancement of intramodal, or rail-to-rail, competition because this is generally what is lost in railroad mergers."

Specific language is required in your final rules to clearly indicate that the protection and enhancement of rail-to-rail competition will be a significant consideration in your assessment of all applications for major railroad consolidations. We do not believe that a general policy statement which "recognizes that the railroad industry is a network of competing and complementary components, which in turn is part of a broader transportation infrastructure that also embraces the nation's highways, waterways, ports and airports" adequately captures the

vital need to ensure that a competitive railway system is maintained and promoted by a merger. We accordingly urge the STB to specifically indicate in the general policy statement that the protection and enhancement of intramodal rail competition will be given significant weight in your determination of major rail consolidation applications. This concept of maintaining and promoting rail-to-rail competition should be incorporated, as required, in clauses (b), (c), (c)(1), (c)(2) and (d) of 1180.1.

CPPA strongly endorses your proposed change in 1180.1(c) that, when evaluating the public interest, you will consider whether the benefits claimed by applicants could be realized by means other than the proposed consolidation. In its 1999 Annual Report, Canadian Pacific Railway Company indicated at page 4 that its “strategy has been to build commercial and operating alliances with other carriers that allow CPR and its alliance partners to operate over each other’s track as if it were part of their own network.” The ability to use these types of co-operative endeavours requires careful scrutiny before a merger application, with its strong likelihood of diminished intramodal rail competition, should be authorized.

CPPA accordingly supports your proposed changes to the balancing test to upgrade the importance of competition and to recognize that redundant capacity is no longer the issue it once was and that improved carrier efficiency should not have the overriding priority that it had before. However, we strongly recommend that significant weight be given to the impact on intramodal rail competition which will likely result from a major rail consolidation rather than on a consideration of the role of railroads in the broader transportation infrastructure.

OTHER MODIFICATIONS

CPPA strongly endorses your proposed rule revisions respecting transitional service problems, the requirement for a detailed service assurance plan with operational monitoring thereof and a formal oversight process for at least the first five years to ensure that the applicants’ representations are being fulfilled and that no unforeseen harms have arisen which may require remedial action.

We also endorse your proposed revisions respecting cumulative impacts and crossover effects which will require applicants to anticipate with as much certainty as possible, what additional Class I merger applications are likely to be filed in response to their own application and to

explain how these applications, taken together, affect the eventual structure of the industry and the public interest. Considering the small number of remaining Class I carriers and the strong likelihood that they will participate in any major rail consolidation proceeding which is initiated, we do not believe that this important modification will result in undue speculation.

TRANSNATIONAL ISSUES

CPPA is pleased with the proposed modifications that future merger applications involving major Canadian and Mexican railroads will require the filing of "full system" competitive analyses and operating plans incorporating the applicants' operations in Canada or Mexico. We strongly support your intention to consult with the relevant officials in other countries as appropriate to ensure that any conditions imposed on a transaction are consistent with the North American Free Trade Agreement and other pertinent international agreements to which the United States is a party. We recommend that your cooperation with Canadian and Mexican agencies charged with approval and oversight of a proposed transnational railroad combination include the coordination and exchange of data on the likely impacts and consequences of a major rail consolidation. This will enable the development of a complete record in all affected jurisdictions.

CONCLUSION

CPPA commends the STB on its proposed modifications to the regulations for major railroad mergers. We urge the STB to clearly and unequivocally state in these regulations that the protection and enhancement of intramodal rail competition will be a significant factor in merger applications.

All of which is respectively submitted this 15th day of November, 2000.

CANADIAN PULP AND PAPER ASSOCIATION

1155 Metcalfe Street
Montreal, Quebec
Canada H3B 4T6

Tel: (514) 866-6621
Fax: (514) 866-3035
Web site: <http://www.cppa.org>

1155, rue Metcalfe
Montréal (Québec)
Canada H3B 4T6

Tél: (514) 866-6621
Télécopieur: (514) 866-3035
Site Internet: <http://www.cppa.org>



Canadian
Pulp and Paper
Association

L'Association
canadienne
des pâtes et papiers

CERTIFICATE OF SERVICE

I hereby certify on this 15th day of November, 2000 that I served copies of the foregoing submission on all parties of record by first class mail, postage pre-paid, in accordance with the Board's Decision of October 3rd, 2000.

CANADIAN PULP AND PAPER ASSOCIATION

Per:

DAVID W. CHURCH

1155 Metcalfe Street
Montreal, Quebec
Canada H3B 4T6

Tel.: (514) 866-6621
Fax: (514) 866-3035
Web site:
<http://www.open.doors.cppa.ca>

1155, rue Metcalfe
Montréal (Québec)
Canada H3B 4T6

Tél.: (514) 866-6621
Télécopieur: (514) 866-3035
Site internet:
<http://www.portes.ouvertes.cppa.ca>